

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:)	
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)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service Seeks Comment on Certain of the)	
Commission's Rules Relating to High –)	
Cost Universal Service Support and)	
the ETC Designation Process)	

Comments of the ICORE Companies

The consulting firm of ICORE, Inc. (ICORE), on behalf of many small, rural incumbent local exchange carriers (ILECs)¹, offers these comments in the above-captioned proceeding. ICORE provides a variety of consulting, regulatory and network related services to a number of small ILECs serving rural and suburban America.

¹ ILECs participating in this filing include: Baraga Telephone Company, Baraga, MI; Barry County Telephone Company, Delton, MI; Citizens Telephone Corp., Warren, IN; Craigville Telephone Company, Craigville, IN; Doylestown Telephone Company, Doylestown, OH; Dunbarton Telephone Company, Inc., Dunbarton, NH; Ft. Jennings Telephone Co., Ft. Jennings, OH; Granby Tel & Telg Company, Granby, MA; Hot Springs Telephone Co., Kalispell, MT; Interstate 35 Telephone Co., Truro, IA; Ironton Telephone Company, Coplay, PA; Laurel Highland Telephone Co., Stahlstown, PA; Lynnville Telephone Company, Sully, IA; McClure Telephone Company, McClure, OH; Middle Point Home Telephone Company, Middle Point, OH; Mon-Cre Telephone Cooperative, Inc., Ramer, AL; New Lisbon Telephone Company, New Lisbon, IN; Northwest Iowa Tel Co., Inc., Sergeant Bluff, IA; Northwestern Indiana Tel Co., Hebron, IN; Nova Telephone Company, Nova, OH; Palmerton Telephone Company, Palmerton, PA; Pennsylvania Telephone Co., Jersey Shore, PA; Prairie Grove Telephone Co., Prairie Grove, AR; Ronan Telephone Co., Ronan, MT; Searsboro Telephone Company, Sully, IA; Southern Montana Tel. Co., Wisdom, MT; Southwest Telephone Exchange, Emerson, IA; Summit Telephone Company, Fairbanks, AK; Sycamore Telephone Company, Sycamore, OH; Wood County Telephone Company, Wisconsin Rapids, WI;

I. INTRODUCTION

High cost universal service support and the ETC designation process are among the most crucial issues facing small, rural ILECs. The outcome of this proceeding will in large part determine the future financial viability of these companies, which have long been the carriers of last resort - - the standard bearers of universal service - - in every corner of our nation.

If small, rural ILECs are put at risk, the long-standing public policy of universal service at affordable rates will be put at equal risk. This country would never have had - - and will not have in the future - - true universal service without the tireless efforts of those dedicated ILECs that serve rural and insular America.

In any reasoned deliberation of “public interest,” the Commission must give its utmost attention to the unbroken and unbreakable link between USF and small, rural ILECs. Any policy that weakens that link will weaken the Commission’s commitment to universal service. Thus, any high-cost universal support or ETC designation standards that threaten the only real providers of universal service - - the ILECs - - cannot possibly be in the public interest.

We have had universal service in this country for decades. The ILECs have been, and continue to be, the responsible parties for providing quality telephone service to every home and business in America. After all these years, they should not be threatened, punished, minimalized or thrown aside simply because there are new entrants in the local service arena.

These new entrants should be accommodated, but not at the expense of universal service, or the companies that have long provided universal service.

We seem to have an almost inherent need in this country to fix things that aren't broken. The ICORE companies strongly urge the Commission to resist this temptation when addressing the critical universal service and ETC designation issues before it.

II. STATE OF THE MARKETPLACE AND UNIVERSAL SERVICE FUND

The first set of questions in this proceeding addresses a number of marketing-related issues. Many require quantitative answers, which the ICORE companies do not have.

What is most clear, however, is that wireless carriers generally account for the most serious form of competition in areas served by small, rural ILECs. Wireline competition is less prevalent, for the very reasons that led this industry to implement universal service policies in the first place. That is, it is very costly to provide physical facilities to serve everyone, everywhere, particularly when the most costly to serve are often the least profitable to serve.

Quite frankly, rural America is not the most attractive market for wireline competition. Wireless providers, with their lower cost structures, are far better suited to serve rural areas. In the past, wireless service was more often a complement to, rather than a replacement for, the ILEC's wireline service. This left the ILEC with its traditional responsibility for universal service in rural America.

Increasingly, however, wireless lines are actually replacing ILEC primary lines. This is due in large part to the pricing schemes of wireless providers, which generally bundle minutes and services into extremely attractive flat monthly rates. Such pricing

packages are absolute proof that wireless carriers have far lower costs than the small, rural ILECs with whom they compete.

Wireless providers have no physical loop costs, while availing themselves of economies of scale and scope that dwarf those of small ILECs. Because of these advantages, wireless companies can offer bundled pricing plans which ILECs - - because of their much higher costs - - cannot possibly match.

This constitutes a major competitive disadvantage for small, rural ILECs. The portability of USF to eligible telecommunications carriers (ETCs) compounds this problem. The lower costs of wireless ETCs give them a huge pricing advantage over small ILECs, allowing the wireless companies to sell new lines or to take existing lines from the wireline incumbent. Yet in the USF portability process, the wireless company is presumed to have the same costs as the ILEC. That is, a wireless provider receives the same per line USF as the incumbent when it sells a new line or captures an existing line - - in reality, lines obtained primarily because of the wireless providers' lower costs.

III. METHODOLOGY FOR CALCULATING SUPPORT IN COMPETITIVE STUDY AREAS

First and foremost, any serious analysis of universal service support calculations must begin with cost. USF for small, rural ILECs is predicated on the fact that they have higher than average costs. They receive high cost loop support, dependent on the level of their cost per loop; and local switching support (LSS) dependent on the number of lines served, which is a surrogate for their per line switching costs.

It is not competitively neutral to award USF to ETCs on the same per line basis as the ILEC. Wireless ETCs do not provide physical loops, whereas ILECs generally have per loop costs of several hundred dollars. Where wireless switches can serve large portions, or all, of a state, only those ILECs with fewer than 50,000 lines receive LSS - - and the bulk of that goes to very small ILECs with fewer than 10,000 lines.

Thus for ILECs, USF support is cost-dependent. Only those whose loop costs exceed a certain threshold receive high cost loop support. Only those which serve relatively small amounts of lines have high enough per line or per minute switching costs to warrant receipt of LSS. Wireless ETCs have no such cost-related tests to pass. In fact, they use their low costs to underwrite pricing schemes that allow them to obtain lines in high cost ILEC territories, and then are awarded per line USF as if they, too, were high cost companies.

Small, rural ILECs need, and are deserving of, USF support. They must build expensive loop plant, often miles and miles from their central office, to serve the very last customer in their service area. They must provide state-of-the-art switching, with CLASS and custom calling features, SS7, and all other functions required by our nationwide, integrated network, to - - in many cases - - a few hundred or a few thousand customers.

Wireless providers, on the other hand, use a technology which avoids most of the substantial costs associated with physical loop plant. They also enjoy economies of scale and scope in switching and other areas that are unknown to small, rural ILECs. They are not, in general, according to the standards and definitions which apply to ILECs, high cost companies.

If the purpose of USF support is to assure ubiquitous telephone service at affordable rates, it is difficult to understand how wireless carriers can qualify for such support. High cost support does not give ILECs a competitive advantage. It simply helps level the playing field with competitors that use a new, low cost technology to create pricing schemes against which ILECs cannot reasonably compete.

The provision of high cost support to low cost companies obviously imposes greater costs on the universal service fund. It is totally contrary to the public interest both to provide support to companies that would not otherwise qualify for such support, and to increase the size of the universal service fund by so doing. Wireless carriers enjoy other forms of regulatory relief as well, including multi-state MTAs and exemption from access charges. They should not arbitrarily be given high cost support, which has been carefully designed to help offset the unavoidable high costs of small, rural ILECs.

If, as explained below, a wireless or wireline competitor meets each and every duty, obligation and responsibility that the ILEC must fulfill in providing universal service; and if the Commission deems it in the public interest to grant ETC status to that carrier, then any USF support it receives must be based on its costs, not the ILEC's.

It is neither just, reasonable, equitable nor in the public interest to award high cost assistance to one carrier, based on the costs of another. Wireless and wireline ETCs must be made to submit their specific loop costs, and their number of lines served, in order to receive high cost loop support and local switching support, just as the ILECs must report their specific data. Wireless and wireline ETC reporting for USF purposes must be held to the same standards as are applied to the ILECs.

The designation of multiple ETCs in any high cost area will increase the size of the universal service fund. Limiting the number of ETCs by making competitors meet all of the ILECs's universal service requirements, as well as limiting the ETCs' USF support to their own costs, will minimize the impact on the universal service fund.

IV. SCOPE OF SUPPORT

The ICORE companies believe that limiting the number of ETCs by holding them to the same exacting USF standards as the incumbent LECs, as well as limiting support based on the ETCs' specific costs, is the best way to minimize pressure on the universal service fund. Limitations based on first and second lines, or primary and secondary residences, are very difficult to administer.

For instance, whenever two or more lines - - from two or more carriers - - appear at the same premise, it is virtually impossible to determine primary versus secondary line(s).

Carrier of last resort obligations are very important to the protection and preservation of universal service, as well as the ETC designation process, but not to the scope of support. As explained more fully below, carrier of last resort responsibility is one of the many requirements which competitors should be made to assume in order to be granted ETC status. There can be no assurance of universal service without at least one carrier committing to serve as the carrier of last resort.

V. PROCESS FOR DESIGNATING ETCs

The ETC designation process is one of the most critical elements in the continued

viability of universal service in rural America. Therefore, since universal service is rooted in public interest principles, any discussion of this process must begin with the public interest.

In many rural areas, the market cannot sustain even one carrier without high cost support. The granting of ETC status to multiple competitive carriers in these rural areas, simply to create artificial competition, is a risky business. It puts further pressure on USF, making it more difficult for the incumbent to continue providing quality service at affordable rates.

The incumbent wireline LECs, with their high fixed costs, necessarily rely on high cost USF support for a significant portion of their revenue. Lower cost competitors - - wireless providers in particular - - are attracted to rural areas by the prospect of receiving this high cost portable support. But if overall funding grows to unmanageable levels because of the proliferation of ETCs, high cost support will be put at risk, and universal service to customers in remote and high cost areas will also be put at risk.

The public interest dictates that an ETC must provide reliable, ubiquitous, facilities-based service, of the highest quality, to its customers. It must be able to ensure that telecommunications services will remain available during emergencies, and that it will continue to provide service to all of its customers, even if there are no other carriers in the market. Rural ILECs have always fulfilled this role, and are committed to continue this awesome responsibility in the future. Most competitive carriers, because of reliance on other carriers' networks, financial constraints, or quality of service issues, cannot meet these obligations.

Wireless carriers, for instance, provide lower levels of quality and reliability, which their customers accept in return for mobility. In rural areas, wireless calls are often difficult to complete, or are garbled, or are dropped, because of geographic obstacles and other problems. Wireless is therefore an acceptable complement to wireline service, but is not a satisfactory replacement for the wireline infrastructure in rural America.

When wireless carriers - - with their inferior service quality and reliability - - are granted ETC status, there is additional strain put on the USF process. Because the incumbent's high fixed costs remain, even when a competitive ETC captures some of its lines or usage, the incumbent's cost of serving its remaining customers increases. In other words, the incumbent's already high cost per customer rises even more.

In high cost rural areas, the division of universal support among multiple ETCs may make it impossible to adequately support even one provider of critical infrastructure. This will of necessity lead to significantly higher rates, poorer service, and even the possibility of financial failure for the single carrier that provides service to the most remote customers.

The ILECs, with their critical wireline infrastructure, are not only crucial to the preservation of universal service, but to the success of most competing carriers. Generally, wireless providers and other alternative carriers rely on the existing wireline network for the origination or termination of their calls. Without a strong ILEC wireline network, other carriers would be unable to provide the kind of service they are providing today.

The public interest is best served by not creating artificial, uneconomic competition in fragile, rural markets. Such uneconomic competition will surely jeopardize universal service in rural America.

Over the past few years, however, the designation of additional ETCs in rural ILEC service areas has become increasingly prevalent. Because of the growth in CETC support payments and the size of the total USF, this is neither sustainable nor in the public interest.

The Commission should therefore adopt a stringent set of public interest principles governing USF in rural areas, as follows:

1. High Cost Support Should Never Be Used to Provide Incentives For Uneconomic Competition in Areas Served by Rural ILECs.

Competition based solely on the portability of high cost support from the ILEC is not in the public interest. It simply increases the total universal service fund, and decreases the ability of the ILEC to provide ubiquitous, reasonably priced service.

Rural ILECs have invested heavily in the necessary infrastructure to serve the highest cost areas of our nation. They have relied on high cost support mechanisms to help them recover a portion of these costs. The portability of their high cost support to competitors with totally different cost structures, and with little commitment to building infrastructure to serve the most isolated and remote customers, is not an appropriate basis for competition, and does not serve the public interest.

2. The USF is a Fragile National Resource Which Must be Properly Managed.

The total fund already stands at some \$6 Billion annually. If it continues to grow as it has over the past several years, it will come under increasing fire from regulators and

legislators. Because of this, the fund cannot be used to create artificial competition in rural areas.

ETC status must be granted very judiciously, using the principles and qualifications suggested herein, or the fund will swell to unsustainable levels. States must not grant ETC status in rural areas where the market can only support one critical infrastructure provider, simply to receive additional federal funding. This is certainly not in the public interest.

3. Rural USF Support Must Continue to be Based on the Legitimate Costs of Serving High Cost Areas.

High cost support has traditionally reflected the difference between the ILECs' cost of serving rural areas, and the affordable rate levels mandated by regulators using universal service principles. This should continue.

The ILECs' high cost support is based on their legitimate costs of providing facilities-based, high quality, ubiquitous service in the most rural and isolated areas of our country. Competitors with different cost structures and less ability or inclination to match all of the ILECs' service obligations should never be given the ILECs' high cost support.

4. The Benefits and Costs of Supporting Multiple Carriers in Rural Areas Must be Carefully Weighed to Determine What Serves the Public Interest.

Both the costs and benefits of designating additional ETCs in rural areas must be carefully evaluated if the USF process is to serve the public interest. The costs of supporting multiple carriers include the additional funding required for each new ETC, as well as the decrease in network efficiency caused by multiple providers serving remote areas.

It is certainly not in the public interest to provide portable high cost support to low cost carriers, or to carriers that serve only low cost or high volume customers. In many high cost areas, the costs of supporting multiple carriers far exceed the benefits. In these areas, there should be only one ETC with the critical infrastructure to provide all customers the reliable, high quality, and facilities-based services that are mandated by the public interest.

In order to satisfy these public interest principles, the Commission should establish a set of qualifications, responsibilities and requirements that potential and existing ETCs in rural areas would have to meet. This would assure that any carrier seeking ETC status has the capability, and the commitment, to provide true universal service.

1. Any Carrier Seeking ETC Designation Must Provide, Throughout the Service Area, All Services Supported by the High Cost USF Program.

At present, there are nine such services. Each and every carrier must demonstrate its ability, and willingness, to provide every one of the supported services. Additionally, if new services are added to the universal service definition in the future, potential and existing ETCs must demonstrate their capability and commitment to providing them, too.

2. Equal Access Should be Added to the List of Supported Services.

Equal access to interexchange service provides customers with the ability to access their presubscribed toll carrier on a 1+ basis, rather than using a code. While the 1996 Act does not require wireless providers to offer equal access, the ILECs are required to provide it, in order that their rural customers have comparable service to urban customers.

If a wireless or other competitive carrier seeks ETC status - - to receive high cost support in return for offering all of the baseline services that are provided by the ILEC - - it must be responsible for offering equal access. In fact, the FCC's universal service principle of competitive neutrality demands it. To avoid any controversy, equal access should simply be added to the list of services supported by the USF program.

3. A Potential or Existing ETC's Local Service Offering Must Satisfy Certain Standards.

A competitive carrier seeking ETC status must offer a reasonable amount of free local usage, as prescribed by Commission rules. The offering must contain enough free local minutes to produce imputed rates that are comparable to rates available in urban areas. The carrier seeking ETC status should be made to provide as much local usage as is required of the incumbent LEC.

4. An ETC Must Advertise its Universal Service Obligation to Offer Service to All Customers in the Service Area.

In order to meet its universal service responsibilities, a potential or existing ETC must advertise its obligation to provide all supported services to every customer, even in the most remote service regions. An ETC cannot limit its advertising to the most profitable customers or the most attractive portions of the service area. ETCs must make every customer, in every part of the service area, aware of its obligation to serve.

Similarly, an ETC must advertise the availability of Lifeline service to all qualifying (low-income) customers.

5. A Carrier Must Have the Ability to Remain Functional During Emergencies, and Must Disclose the Extent of its Dependence on Other Carriers' Networks.

A potential ETC must demonstrate that it has taken reasonable security measures to protect its infrastructure, and that it is not overly dependent on the networks of other carriers, so that it is able to provide service during emergencies.

6. A Carrier Must Demonstrate Financial Stability.

In light of the recent bankruptcies in several segments of the telecommunications industry, it is very important that carriers seeking ETC status provide evidence of their long-term financial stability. Rural service areas should not be subject to the disruption caused by carriers that lack the financial stability to make long-term commitments.

In addition to the above qualifications governing ETC designation, state commissions and the FCC should adopt the following clear policies in regard to ETC status in rural areas.

1. ETC Designation in Rural ILEC Areas Must be Made at the Study Area Level.

The study area has long defined the service area for rural ILECs. Rural ILECs, in fulfilling their universal service and carrier of last resort obligations, provide high quality, reliable, facilities-based services, for all supported services, to everyone in the study area. Potential ETCs should have to do no less.

To designate ETCs at anything less than the study area level will very likely allow certain customers to go unserved, and the competitive ETC to have less service responsibility than the ILEC.

2. ETCs Should be Required to Base Their High Cost Support on Their Specific Costs.

As pointed out above, it is unreasonable to provide one company with the same level of high cost support as the company on which such support is based. ILECs have invested significantly in the infrastructure required to serve all of its territory, including the most remote and isolated corners. Competitive carriers have vastly different cost structures.

It is totally inappropriate to make portable the ILECs' high cost support, which is based on their legitimate high costs of providing service in rural areas, to ETCs with different - - and generally lower - - cost structures.

Even if competitive carriers satisfy all of the requirements, obligations and policies outlined above, and the benefits of designating multiple ETCs in rural areas outweigh the costs, USF support for these CETCs must be based on their specific costs of providing universal service, not the ILECs'.

3. Any Reporting Requirements, Service Standards, Billing Requirements or Other Regulatory Requirements Relating to Universal Service Should be Applied Equally to all ETCs.

In order to assure that CETCs are fulfilling all of their universal service responsibilities, state commissions must impose on them the same regulatory requirements that they impose on incumbent LECs. This evens out regulatory costs and promotes competitive neutrality. Anything less gives CETCs an unfair competitive advantage.

4. CETCs Must Assume Carrier of Last Resort Obligations.

There can be no universal service without a carrier of last resort. If all service providers are allowed to exit the market, there will be no universal service. While rural

ILECs have always fulfilled the carrier of last resort role, the 1996 Act permits ILECs, under certain conditions, to relinquish their ETC status in areas served by more than one ETC.

To ensure the continuation of universal service when even the traditional carrier of last resort may leave the market, it is necessary to have a commitment from every ETC that it will assume carrier of last resort responsibility if it finds itself to be the “last man standing.”

5. State Regulatory Commissions Must have the Authority to Decertify Any ETC That Fails to Meet Any of the Qualifications, Requirements or Responsibilities Outlined Herein.

Any ETC that fails to satisfy any of the public interest criteria required of it must be decertified. The public interest will not be served by ETCs that do not, or cannot, fulfill all of their responsibilities and obligations to provide universal service.

It is not fair to other ETCs that are meeting all of their requirements, to continue certifying ETCs which are not. Safeguards, including reporting requirements, audits and other means, should be implemented to assure compliance with all universal service obligations and responsibilities.

VI. CONCLUSION

The liberal designation of CETCs in rural areas has increased universal service funding and, if continued, will swell the fund to unsustainable levels. This puts legitimate ILEC high cost support at risk, and universal service in rural America at similar risk.

The designation of multiple ETCs in rural areas is very often not in the public interest. The FCC and the state regulatory commissions should adopt a clear set of public interest principles to govern the ETC designation process.

Regulators should also establish a set of responsibilities, obligations and requirements for the provision of universal service which apply equally to all carriers. Even when a carrier satisfies all of these requirements, and its ETC designation passes all public interest tests, its universal service support (if any) should be based on its specific costs.

Adoption of the recommendations contained herein will help ensure the continuation of universal service in rural America.

Respectfully submitted,
ICORE, Inc.

A handwritten signature in black ink, appearing to read "J. Reimers", written over a horizontal line.

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